

Daniel J. Sherman
State Bar No. 18241000
SHERMAN & YAQUINTO, L.L.P.
509 N. Montclair Avenue
Dallas, TX 75208-5498
214/942-5502 Fax: 214/946-7601
ATTORNEY FOR TRUSTEE

IN THE UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

IN RE:

MERITAGE MORTGAGE CORPORATION

DEBTOR

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CASE NO. 09-30971-SGJ-7

**APPLICATION TO EMPLOY
SPECIAL COUNSEL FOR A SPECIFIC PURPOSE**

TO THE HONORABLE STACEY G. JERNIGAN, U.S. BANKRUPTCY JUDGE:

Daniel J. Sherman, trustee, files this application to employ special counsel for a specific purpose, and respectfully shows the Court as follows:

1. On February 17, 2009, Meritage Mortgage Corporation ("Debtor") filed a Voluntary Petition under Chapter 7 of the Bankruptcy Code. Daniel J. Sherman ("Trustee") was appointed as trustee.

2. Prior to the filing of the bankruptcy petition, Debtor, **MERITAGE MORTGAGE CORPORATION**, had employed Ronald N. Towne and Ann L. Wehener of the law firm of Leiby, Hanna & Rasnick, Towne, Evanchan, Palmisano & Hobson, LLC, to defend it against predatory lending claims made in the Common Pleas Court, Stark County, Ohio by David Sokolousky, et. al., No. 2007-CV-01247.

3. Trustee seeks to employ Ronald N. Towne and Ann L. Wehener of the law firm of Leiby, Hanna & Rasnick, Towne, Evanchan, Palmisano & Hobson, LLC, as special counsel for the specific purpose of defending this estate in the Common Pleas Court in Ohio where the

APPLICATION TO EMPLOY SPECIAL COUNSEL

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mortgagee, Citigroup Global Realty Markets, Inc., filed suit to foreclose its lien and the Sokolouskys responded with claims of predatory lending by the debtor.

4. Since Ronald N. Towne and Ann L. Wehener of the law firm of Leiby, Hanna & Rasnick, Towne, Evanchan, Palmisano & Hobson, LLC are familiar with the facts of the case and is experienced in this area of the law, the trustee believes they are a good choice to represent the estate. The trustee does not believe this creates a conflict for Ronald N. Towne and Ann L. Wehener. Ronald N. Towne and Ann L. Wehener have not served as examiner of the estate; and to the best of Applicant's knowledge, other than his previous representation of Debtor, Ronald N. Towne and Ann L. Wehener is a disinterested person.

5. The law firm of Leiby, Hanna & Rasnick, Towne, Evanchan, Palmisano & Hobson, LLC is currently owed \$2,784.28 in attorneys fees for work done on behalf of the debtor prior to the filing of the petition in bankruptcy. Leiby, Hanna & Rasnick, Towne, Evanchan, Palmisano & Hobson, LLC has agreed to waive the prepetition claim against the debtor as a condition of employment by this estate. In Applicant's opinion, the employment of Ronald N. Towne and Ann L. Wehener of the law firm of Leiby, Hanna & Rasnick, Towne, Evanchan, Palmisano & Hobson, LLC will be in the best interest of this estate, since they are familiar with the facts of the lawsuit and practice regularly in that part of Ohio.

WHEREFORE, Applicant prays that the Court enter an Order authorizing the employment of Ronald N. Towne and Ann L. Wehener of the law firm of Leiby, Hanna & Rasnick, Towne, Evanchan, Palmisano & Hobson, LLC as special counsel for the specific purpose defending the estate against the predatory lending claims made by the Sokolouskys pursuant to the Attorney/Client Agreement and approved by this Court as is just; and for such other and further relief to which the estate may be justly entitled.

Respectfully submitted,

/s/ Daniel J. Sherman

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ATTORNEY FOR TRUSTEE

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of ***Motion to Employ Special Counsel for a Specific Purpose*** has been forwarded by electronic transmission to the United States Trustee, 1100 Commerce Street, Room 976 Dallas, TX 75242, and Debtor's attorney, ELIZABETH GRACE SMITH, 6655 First Park Ten, Suite 250, San Antonio, TX 78213, on this 27th day of August, 2010.

/s/ Daniel J. Sherman

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AFFIDAVIT OF PROPOSED SPECIAL COUNSEL

THE STATE OF OHIO

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COUNTY OF SUMMIT

I, Ronald N. Towne, hereby make a solemn oath:

1. That I am an attorney at law, duly admitted to practice in the State of OHIO.
2. I maintain a law office at Leiby, Hanna & Rasnick, Towne, Evanchan, Palmisano & Hobson, LLC, located at 388 S. Main St., Suite 402, Akron, Ohio 44311. My firm represented Meritage Mortgage Corporation prior to the bankruptcy petition and filed a proof of claim for unpaid fees. I have agreed to withdraw the proof of claim as a condition of the employment by this estate. Otherwise, I have no connection with the above-named Debtors, their creditors or any other party in interest or their respective attorneys.
3. I have not now, or have ever held or represented any interest adverse to the estate other than as disclosed above, and I am now and throughout these proceedings a "disinterested persons" within the meaning of 11 U.S.C. §101(14).
4. I desire to be employed to represent the Debtor for the specific purpose described in the preceding Application, with compensation and reimbursement of expenses to be allowed and directed to be paid pursuant to the Order of this Court as is just.

APPLICATION TO EMPLOY SPECIAL COUNSEL

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Ronald N. Towne

24th **SUBSCRIBED AND SWORN TO BEFORE ME** by the said **Ronald N. Towne** on this day of August, 2010, to certify which witness my hand and seal of office.



NOTARY PUBLIC, in and for
the State of Ohio



Printed Name of Notary Public

Commission Expires:

Elizabeth A. Young
Resident Summit County
Notary Public, State of Ohio
My Commission Expires: 07/25/2014

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AFFIDAVIT OF PROPOSED SPECIAL COUNSEL

THE STATE OF OHIO §
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COUNTY OF SUMMIT §

I, Ann L. Wehener, hereby make a solemn oath:

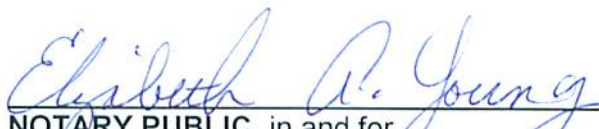
1. That I am an attorney at law, duly admitted to practice in the State of OHIO.
2. I maintain a law office at Leiby, Hanna & Rasnick, Towne, Evanchan, Palmisano & Hobson, LLC, located at 388 S. Main St., Suite 402, Akron, Ohio 44311. Except as disclosed in the preceding Application, I have no connection with the above-named Debtors, their creditors or any other party in interest or their respective attorneys.
3. I have not now, or have ever held or represented any interest adverse to the estate other than as disclosed above, and I am now and throughout these proceedings a "disinterested persons" within the meaning of 11 U.S.C. §101(14).
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Ann L. Wehener

24th SUBSCRIBED AND SWORN TO BEFORE ME by the said Ann L. Wehener on this day of July, 2010, to certify which witness my hand and seal of office.


NOTARY PUBLIC, in and for
the State of Ohio

Elizabeth A. Young
Printed Name of Notary Public
Commission Expires: _____
Elizabeth A. Young
Resident Summit County
Notary Public, State of Ohio
My Commission Expires: 07/25/2014